

REMARKS

Claims 1-3 and 6-8 are currently under active prosecution in this application. For the reasons set forth below, it is requested that claim 9 be reinstated as a claim under active prosecution.

ELECTION/RESTRICTIONS

The withdrawal of claim 9 from consideration as being directed to a non-elected invention is traversed.

Claim 9 as filed was manifestly directed to the elected species of the invention, namely, the species illustrated in Fig. 1 and described in detail at page 7 of the specification. However, as filed, the claim contained two typographical errors, namely, the numeral 61 instead of 16 and the numeral 61 instead of 50. As such, the claim was not supported by the specification (see page 7) and was in error. The error was corrected in the amendment filed on March 4, 2004.

The alleged action on the merits of original claim 9 was not directed to either (a) the specific layer thicknesses or (b) the specific percent reflectance claimed in the claim, but instead consisted solely of a recitation of the standard language for the ever convenient "result effective variable" rejection. Though technically a rejection, it did not reach the merits of and did not require a search for the numeric values that are now correctly set forth in the amended claim.

It is requested that amended claim 9 be reinstated as a claim under active prosecution.

CLAIM REJECTIONS – 35 U.S.C. 102

Claim 1, and thus all of dependent claims 2 – 9, have been amended to specify that the first layer of material of high refractive index is deposited directly onto the substrate. The reference relied upon in the Office Action under response, Nakanishi, teaches that it is very important to have an adhesion layer 12 between the substrate 11 and the anti-reflection stack 13. None of the layers of Nakanishi's anti-reflection stack is deposited directly onto the substrate. Thus, the claims distinguish patentably over Nakanishi under 35 U.S.C. 102. This is true because anticipation under Section 102 requires the presence in the reference of each and every element of the claimed invention arranged as in the claim. Connell et al. v. Sears Roebuck & Co., 220 USPQ 193, 198 (Fed. Cir. 1983); Structural Rubber Products Co. v. Park Rubber Co., 223 USPQ 1264, 1270 (Fed. Cir. 1984.)

35 U.S.C. 103

Though the Office Action under response does not contain a rejection under Section 103, it is nevertheless pointed out that it would not have been obvious from Nakanishi disclosure to omit the adhesion layer 12. The adhesion layer is the absolute essence of Nakanishi's disclosure and invention.

Further, pursuant to Applicant's invention, depositing the first high refractive index layer directly onto the substrate improves the optical quality of the article and simplifies the optical matching of the refractive indices, a subject entirely foreign to Nakanishi's disclosure.

Nakanishi does not mention optical matching, does not give any

thicknesses for the alternating layers of SiO_2 and TiO_2 in the anti-reflection stack 13, and does not provide any data on the visible light reflectance and/or transmittents of the device comprised of elements 11, 12, 13 14. There is no disclosure whatever in Nakanishi to suggest optical matching of reflective indices.

Claims 1-9 distinguish patentably over Nakanishi in the sense of Section 103 as well as Section 102.

CONCLUSION

For the reasons stated, it is submitted that claims 1-9 distinguish patentably over Nakanishi and are now in condition for allowance. Reconsideration and allowance of the application are respectfully solicited.

Respectfully submitted,

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